

**COMMENTS OF LOW TECH DESIGNS**  
**IN OPPOSITION TO APPLICATION BY BELL SOUTH**  
**CC DOCKET NO. 97-208**

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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )  
Application by BellSouth Corporation, )  
BellSouth Telecommunications, Inc., and )  
BellSouth Long Distance, Inc., for )  
Provision of In-Region, InterLATA )  
Services in South Carolina )

CC DOCKET NO. 97-1208

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OCT 20 1997

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**COMMENTS OF LOW TECH DESIGNS  
IN OPPOSITION TO APPLICATION BY BELL SOUTH**

Low Tech Designs, Inc., ("LTD") respectfully submits the following comments in opposition to the BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. ("BellSouth") application for authority to provide In-Region, InterLATA services in the State of South Carolina.

**SUMMARY**

BellSouth's application should be denied. BellSouth has repeatedly refused to negotiate access to and assign telephone numbering resources to LTD, a requesting telecommunications carrier. BellSouth is not in compliance with several competitive checklist items, and has demonstrated behavior that is anti-competitive and in violation of the Telecommunications Act of 1996.

**I. BACKGROUND AND STANDING**

**1. Negotiation and Arbitration History**

LTD is a Georgia Corporation with foreign corporation status in South Carolina. LTD's headquarters are in Georgetown, SC. The President of LTD, Mr. James M. Tennant, is a former employee of the original Southern Bell Telephone and Telegraph Company, and started his telephony career with Southern Bell in his hometown of Columbia, SC, in 1973.

In October of 1995, prior to the passage of the Telecommunications Act of 1996, LTD approached BellSouth with a request for access to their Advanced Intelligent Network ("AIN") for the purpose of creating new telecommunications services. These initial negotiations were not successful, in that LTD was not able to arrange for appropriate mass market access to its services via a pay-per-use \*XX code.

On August 12, 1996, after the release of the FCC's rules implementing the local competition provisions of the 1996 Act, LTD requested that BellSouth enter into negotiations with LTD as a competitive local exchange carrier, with access to AIN, as required under the FCC's Section 251 Orders, being LTD's primary concern. BellSouth responded on August 19, 1996, and accepted LTD's request for negotiations.

Negotiations commenced and were not successful. During the negotiations, LTD made it clear that it wished to provide services in all BellSouth jurisdictions. LTD received a letter dated March 21, 1997, from Mr. Guy Hicks, General Counsel for BellSouth in Tennessee, advising LTD that Mr. Jerry Hendrix, LTD's negotiating contact, was, in fact, authorized to negotiate region-wide interconnection agreements. Based on this fact, negotiations between the parties have had ramifications for LTD's service plans in South Carolina, the subject territory for this instant docket.

On January 16, 1997, LTD filed a Petition for Arbitration with the Georgia Public Service Commission. In that petition, LTD claimed to be a "new entrant telecommunications carrier under Section 3(49) <sup>1</sup> [sic] and 252(a)(1) of the Act".

In their February 14, 1997 Answer to LTD's petition, BellSouth agreed that LTD was a telecommunications carrier as defined in the Act. It was specifically stated that "BellSouth admits that LTD has identified Atlanta, Georgia as an initial target market and that LTD is a telecommunications carrier within the meaning of the Act. <sup>2</sup>"

LTD was also aware of FCC Rules (47 CFR 51.301 Duty to negotiate) stating:

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<sup>1</sup>LTD was originally using a Library of Congress Internet version of the 1996 Act that defined a "telecommunications carrier" in Section 3(49). Subsequently, this definition was codified at 47 U.S.C. 153(44), which is the correct citation.

<sup>2</sup>It should be noted that BellSouth later "changed its mind" on this issue, after it became aware of LTD's arbitration dismissal in Illinois, and issued a Motion to Dismiss the Arbitration on April 9, 1997. BellSouth argued that only actual and current providers of telecommunications services could be considered to be a "requesting telecommunications carrier". This restrictive interpretation was dismissed by the Georgia PSC. "BellSouth's arguments included an assertion that Low Tech must first show that it is providing a telecommunications service, even in another jurisdiction, before it qualifies as a telecommunications carrier eligible to enforce Section 251 and Section 252 requirements through compulsory arbitration. A new entrant should not have to show that it actually provides telecommunications services somewhere, because such a rule would preclude a company that is just beginning its operations". Georgia PSC Order Dismissing Arbitration, page 4, Docket 7270-U, May 19, 1997.

BellSouth, in their Motion to Dismiss, pg. 5, stated: "LTD is not a "telecommunications carrier simply because in its response to LTD's petition for arbitration BellSouth admitted as much. First, BellSouth merely assumed that LTD was a "telecommunications carrier", and it had no information based upon the facts as alleged in the Petition to indicate that such was not the case."

BellSouth in fact acknowledged LTD as a "telecommunications carrier" within the meaning of the Act, and did not need any additional "facts" to rely upon.

- (a) An incumbent LEC shall negotiate in good faith the terms and conditions of agreements to fulfill the duties established by sections 251(b) and (c) of the Act.
- (b) A requesting telecommunications carrier shall negotiate in good faith the terms and conditions of agreements described in paragraph (a) of this section.
- (c) If proven to the Commission, an appropriate state commission, or a court of competent jurisdiction, the following actions or practices, among others, violate the duty to negotiate in good faith:
- (4) **conditioning negotiation on a requesting telecommunications carrier first obtaining state certifications;** (emphasis added)

Additionally, LTD was aware of the Conference Committee report <sup>3</sup> that discussed the rationale for the final version of the Act, which stated:

"The conferees note that the duties imposed under new section 251(b) make sense only in the context of a specific request from another telecommunications carrier or **any other person** who actually seeks to connect with or provide services using the LEC's network." (emphasis added)

Taken together, the Conference Committee language, the rules of the FCC, and the original admissions of BellSouth point to the validity of LTD's claim to be a "requesting telecommunications carrier" under the Telecommunications Act of 1996. As the Conference Committee report makes clear, the Congress intended **existing telecommunications carriers, or any entity or person,** be able to engage an ILEC in interconnection negotiations. These entities were given the name "requesting telecommunications carrier" in Sections 251 and 252 of the Act <sup>4</sup>. The Conference Committee Report language clearly indicates that this wording should be interpreted to include **any entity** that engages an incumbent LEC in interconnection negotiations, just as the definition of a "telecommunications carrier" is "**any** provider of telecommunication services", including those just starting to negotiate with ILEC's.

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<sup>3</sup>H.R. Rep. No. 458, 104th Cong., 2d Sess. (Joint Explanatory Statement of the Committee on Conference)

<sup>4</sup>Section 251(b), Section 251(c) and Section 252 responsibilities and language are intertwined for BellSouth, as is the status of LTD as a requesting telecommunications carrier. Quoting from the Act: **Section 251(c) ADDITIONAL OBLIGATIONS OF INCUMBENT LOCAL EXCHANGE CARRIERS.**--In addition to the duties contained in subsection [251](b), each incumbent local exchange carrier has the following duties: (1) DUTY TO NEGOTIATE.--The duty to negotiate in good faith in accordance with section 252 the particular terms and conditions of agreements to fulfill the duties described in paragraphs (1) through (5) of subsection [251](b) and this subsection. The requesting telecommunications carrier also has the duty to negotiate in good faith the terms and conditions of such agreements.

## 2. FCC Actions

LTD's Petition for Arbitration before the Georgia Public Service Commission was subsequently dismissed without prejudice, because LTD was not certificated by the Georgia Commission. LTD filed for FCC preemption under Section 252(e)(5) of the Act on July 11, 1997 in CC Docket 97-164. This preemption request was denied by the FCC in a Memorandum Opinion and Order released on October 8, 1997 (FCC 97-362). In this Order, the FCC never reached the issue of whether LTD was in fact a "requesting telecommunications carrier" under the 1996 Act, as LTD had repeatedly insisted in both State and Federal proceedings. Instead, the FCC refused to preempt the Georgia Commission, which had argued that "it should not and will not consider an entity to be telecommunications carrier in Georgia, unless and until it has obtained a certificate of authority from this Commission" <sup>5</sup>. (emphasis added)

The FCC's Order stated, in paragraph 39:

"In sum, we conclude that LTD has not met its burden of demonstrating that the ... Georgia Commission ... has "failed to act" within the meaning of our rules implementing section 252(e)(5). Rather, these three state commissions have met the requirements of our rules by responding in a timely manner to LTD's request for arbitration and rendering a final decision in the arbitration, dismissing or denying the petitions on the basis that LTD did not satisfy a statutory prerequisite to invoke arbitration under section 252(b)."

The FCC did not rule, in the above Order, if the 1996 Act requires arbitration between LTD as a "requesting telecommunications carrier" and an incumbent LEC. Instead, it allowed the Georgia PSC determination to stand that LTD was not a telecommunications carrier in Georgia, based on the Georgia Commissions opinion that an entity entitled to invoke arbitration in Georgia under the Act must first be certificated by the Georgia Commission.

## 3. LTD Still a "Requesting Telecommunications Carrier Under the Act

LTD contends that it is still legally considered a "requesting telecommunications carrier" under the Act, and that the duties outlined in the Act for ILEC negotiations with requesting telecommunications carriers apply to LTD. BellSouth must still negotiate in good faith with LTD, under the Act and FCC Rules, as a result of this status, regardless of prior State Commission rulings that may affect LTD's ability to arbitrate before State

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<sup>5</sup> See Comments of the Georgia Public Service Commission in Opposition to Low Tech's Petition, page 4, dated July 28, 1997.

Commissions. Still, BellSouth has continued to deny LTD negotiated access to telephone numbering resources.

In their Motion to Dismiss the Arbitration, BellSouth espoused a theory that LTD must already be actively providing telecommunications services, and therefore, by virtue of reason, certified in some state, before being considered a "requesting telecommunications carrier". This theory was rejected by the Georgia Commission. BellSouth's actions ultimately showed a refusal to negotiate in good faith with LTD as a requesting telecommunications carrier, prior to LTD obtaining state certifications, and were therefore in violation of 47 CFR 51.301(c)(4). These bad faith negotiations have had a direct impact on LTD's ability to offer services in the State of South Carolina.

## II. BELL SOUTH'S CONTINUED AND WILLFUL VIOLATIONS OF THE 1996 ACT

### 1. LTD's Attempts to Obtain Telephone Numbering Resources

LTD has attempted, in its ongoing negotiations and failed arbitration with BellSouth, to obtain access to the \*11 abbreviated dialing code for the purpose of creating new telecommunications services. LTD calls its new service "Star \*11sm".

Abbreviated dialing codes have been determined by the FCC to be "telephone numbers of less than the standard 7 or 10 digits" <sup>6</sup> (emphasis added). The FCC has reiterated its previous policy that these codes are available for use for intrastate purposes <sup>7</sup>, which is the stated intent of LTD.

Assignment of a \*XX code or codes to LTD is also justified by the requirements of the Telecommunications Act of 1996 that requires nondiscriminatory access to network elements, which includes "subscriber numbers ... used in the ... routing ... of a telecommunications service" <sup>8</sup>. LTD contends that subscriber numbers and telephone numbers are one and the same, and reminds the Commission that the 14 point competitive checklist also requires "nondiscriminatory access to telephone numbers" <sup>9</sup>.

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<sup>6</sup>See Paragraph 1, FCC 97-51, FIRST REPORT AND ORDER AND FURTHER NOTICE OF PROPOSED RULEMAKING, February 19, 1997 (In the Matter of The Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket No. 92-105).

<sup>7</sup>*Id* Paragraph 62. "While we decline to make any national assignment or other reservation of abbreviated dialing arrangements at this time, we reiterate that no federal policy bars the use of such arrangements for intrastate service offerings."

<sup>8</sup>See 47 U.S.C. 153(29)

<sup>9</sup>See 47 U.S.C. 271(c)(ix)

This requirement is also contained within section 251(b)(3) of the Act, where it is stated:

"DIALING PARITY - The duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays." (emphasis added)

BellSouth uses these abbreviated dialing code telephone numbers extensively and exclusively, and has refused to assign the requested \*11 telephone number to LTD for use in any of its states, including South Carolina. BellSouth has taken the absurd position that these FCC declared telephone numbers are not "network elements".

## **2. BellSouth's Anti-Competitive and Duplicitous Actions**

BellSouth has gone so far, in their refusal to assign LTD its requested \*11 telephone number, that it has willfully and unilaterally assigned the BellSouth Mobility \*11 cellular number to WXIA-TV, Channel 11, in Atlanta. This is in spite of BellSouth's continued insistence that LTD approach the North American Numbering Plan Administrator (NANPA) for an assignment of the \*11 number. LTD, during the course of a September 29, 1997 hearing before the Georgia Public Service Commission regarding LTD's pending certification application, accused BellSouth of violating the guidelines for harmonization between wireless and wireline carriers by this \*11 assignment to WXIA, which was not approved by the NANPA, the same organization BellSouth has insisted LTD must approach for its \*11 assignment. This accusation was not challenged by BellSouth's attorney, Mr. Fred McCallum, in cross examination of LTD's President, Mr. James M. Tennant. This action by BellSouth was intended to spoil LTD's eventual \*11 number assignment in the Atlanta area, and is the possible subject of a future temporary restraining order petition by LTD.

## **3. LTD Use of the Requested \*11 Number**

LTD wishes to make the \*11 telephone number available for dialing on a pay-per-use basis, just as BellSouth has recently made their \*XX telephone numbers available for dialing on a pay-per-use basis, without requiring presubscription, throughout their service territories, including South Carolina.

#### 4. BellSouth's Section 271 Non-Compliance

The refusal of BellSouth to make the \*11 telephone number available to LTD, in South Carolina and other states, places BellSouth squarely in violation of the requirements of the Act, as outlined above, and specifically in violation of the following checklist items and requirements of Section 271(c)(2)(B) of the Act:

(ii) Nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1).

(ix) Until the date by which telecommunications numbering administration guidelines, plan or rules are established, nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers.

(xii) Nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3).

#### 5. Conclusion

For all of the following reasons, BellSouth has not met the competitive checklist items above that are a requirement for entry into the South Carolina InterLATA long distance market. BellSouth has failed to negotiate in good faith and to provide LTD access to network elements and telephone numbering resources necessary for LTD's entry into the telecommunications marketplace. BellSouth's application must be DENIED.

Respectfully submitted, this 18th day of October, 1997.



James M. Tennant  
President  
Low Tech Designs, Inc.  
1204 Saville St.  
Georgetown, SC 29440  
803 527-4485





**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served one copy of the COMMENTS OF LOW TECH DESIGNS IN OPPOSITION TO APPLICATION BY BELLSOUTH, by depositing same in the United States mail in a properly addressed envelope with adequate postage thereon to insure delivery to the following parties:

One copy was mailed and faxed to:

Margaret H. Greene  
Counsel  
BellSouth Corporation  
28 Perimeter Center East  
Atlanta, GA 30346

F. David Butler  
General Counsel  
South Carolina PSC  
111 Doctors Circle  
P.O. Drawer 11649  
Columbia, SC 29211

Department of Justice  
c/o Donald J. Russell  
Telecommunications Task Force  
Antitrust Division  
Room 8205  
555 Fourth Street, N.W.  
Washington, D.C. 20001

International Transcription Service  
1231 20th St., N.W.  
Washington, DC 20036

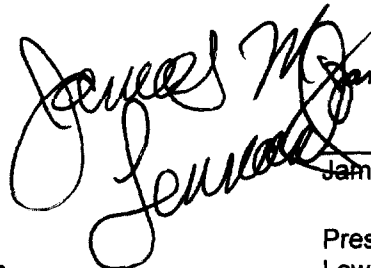
Five copies were delivered, via overnight mail, to:

Janice Myles  
Policy and Program Planning Division  
Common Carrier Bureau  
Federal Communications Commission  
Room 544  
1919 M Street, N.W.  
Washington, D.C. 20554

This 18th day of October, 1997.

An original and eleven copies were delivered, via overnight mail, to:

Office of the Secretary  
Federal Communications Commission  
Rm. 222  
1919 M. St., N.W.  
Washington, DC 20554

 *James M. Tennant*

James M. Tennant

President  
Low Tech Designs, Inc.  
1204 Saville St.  
Georgetown, SC 29440  
(803) 527-4485

Attachment "A"

August 12, 1996

Mr. Bob Scheye  
BellSouth  
Suite 11A15  
675 W. Peachtree St.  
Atlanta, GA 30375

Dear Mr. Scheye,

Please accept this letter as my formal request to enter into negotiations with BellSouth as a competitive local exchange carrier. I have a pending request before the South Carolina PSC that I am anticipating a favorable ruling on soon.

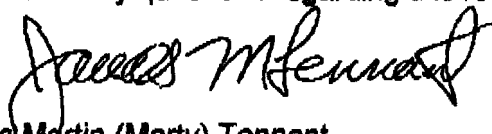
My primary concern in our negotiations will be access to the capabilities of the Advanced Intelligent Network, as required recently by the FCC in their Sec. 251 orders.

I have previously signed a non-disclosure agreement with BellSouth related to my Advanced Intelligent Network plans, and refer you to Mr. Richard Lee in your Birmingham offices for more details. Please be advised that Mr. Lee is only allowed to disclose my plans to those with a need to know, and may not be in a position to reveal to you my conversations and paper disclosures to him.

If you are, or are not, disclosed this information, I would appreciate being advised of the fact so that I may act accordingly in our negotiations.

If you have any questions regarding this request, please contact me directly.

I am,



James Martin (Marty) Tennant  
President - Low Tech Designs, Inc.  
1204 Saville St.  
Georgetown, SC 29440

803 527-4485 voice  
803 527-7783 fax

email to: [marty@sccoast.net](mailto:marty@sccoast.net)

Attachment "B"  
BELL SOUTH

BellSouth Telecommunications, Inc. 404 420-8327  
Room 11A15  
875 West Peachtree Street, N.E.  
Atlanta, Georgia 30375

Robert C. Scheye  
Senior Director

August 19, 1996

FAX

404-521-2311

Mr. James Martin Tennant  
President  
Low Tech Designs, Inc.  
1204 Saville Street  
Georgetown, SC 29440

Dear Mr. Tennant,

I am writing to you in response to your letter of August 12, 1996, requesting negotiations with BellSouth in regard to the provision of competitive local exchange services. BellSouth would be pleased to enter into negotiations with Low Tech Designs, Inc. with the intent of developing a mutually acceptable agreement. BellSouth is currently negotiating with many companies in this regard, and has successfully concluded agreements with over one dozen carriers.

Please contact me at 404-420-8327 or Bob Wilhelm at 404-529-5148 to schedule a time for an initial meeting or conference call to further discuss the scope of the negotiations.

Sincerely,

  
Bob Scheye

Attachment 'c'  
© **BELLSOUTH**

BellSouth Telecommunications, Inc. 615 214-6301  
Suite 2101 Fax 615 214-7406  
333 Commerce Street  
Nashville, Tennessee 37201-3300

Guy M. Hicks  
General Counsel

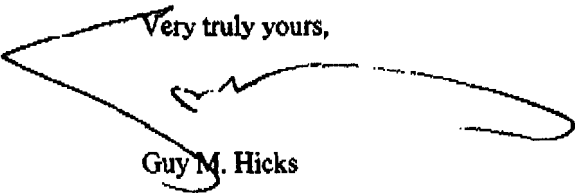
March 21, 1997

Mr. James M. Tennant, President  
Low Tech Designs, Inc.  
1204 Saville Street  
Georgetown, SC 29440

Dear Mr. Tennant:

This is in furtherance of our telephone conversation yesterday. You called and asked whether or not your firm, Low Tech Designs, Inc., could initiate negotiations with BellSouth in Tennessee. As I stated during the call, Mr. Jerry Hendrix, of BellSouth Telecommunications, Inc. in Atlanta, has been authorized by the Company to negotiate region-wide interconnection agreements. I understand that you have already been in contact with Mr. Hendrix. While BellSouth's Tennessee office will not participate in the negotiations, we will be pleased to work with you in seeking Tennessee Regulatory Authority approval of any interconnection agreement that your firm negotiates with BellSouth.

Very truly yours,



Guy M. Hicks

GMH:ch

cc: Jerry Hendrix

Attachment 5

("NARUC"), that the FCC Order is overreaching and improperly extends the jurisdiction of the FCC. In fact, and as this Commission is aware, the United States Court of Appeals for the Eighth Circuit on October 15, 1996 stayed the "pricing" and the so-called "pick and choose" provisions of the FCC Order. Thus, at least with respect to these provisions, the FCC Order is not binding on this Commission. Other provisions of the FCC Order that have been appealed may be affirmed or reversed by the Eighth Circuit in the due course of the appeal.

### **III. SPECIFIC RESPONSES**

In response to the specific allegations in the Petition, BellSouth states as follows:

1. BellSouth admits that it has negotiated in good faith with LTD in an attempt to enter into an interconnection agreement consistent with the Act. BellSouth also admits that LTD has indicated its desire to offer a service utilizing BellSouth's Advanced Intelligent Network ("AIN"). BellSouth has not been able to come to agreement with LTD because LTD has: (i) requested certain AIN functionality that is not technically feasible to provide; and (ii) rejected capabilities that are technically feasible and that would allow LTD to offer its planned service. BellSouth denies the remaining allegations in paragraph 1 of the Petition.

2. BellSouth admits that LTD has identified Atlanta, Georgia, as an initial target market and that LTD is a telecommunications carrier within the meaning of the Act. BellSouth is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 2 of the Petition.

Attachment "E"

Georgia or anywhere else. In prior arbitrations, there was little cause for concern about the ability of the likes of AT&T, MCI, and other established carriers to furnish telecommunications services to the public. Here, by contrast, the only State Commission from which LTD has sought regulatory approval to serve the public -- South Carolina -- found LTD's application "insufficient on several grounds." To date, LTD has not bothered to seek such approval in Georgia. Since LTD is not providing telecommunications services in Georgia or in any other state (and is not even authorized to do so), there is no evidence in this record to support the proposition that LTD is, in fact, a telecommunications carrier presently providing telecommunications services to the public. Absent such evidence, this arbitration proceeding must be dismissed.<sup>2</sup>

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<sup>2</sup> The FCC has made clear that an ILEC violates its duty to negotiate in good faith if it "condition[s] negotiations on a *requesting telecommunications carrier* first obtaining state certifications." 47 C.F.R. § 51.301(c)(4) (emphasis added). This regulation underscores that only a telecommunications carrier is entitled to demand negotiations -- wholly apart from the question of whether it is certificated. It also is most likely to come into play is when a telecommunications carrier that is certificated in Florida, for example, but not in Georgia, requests negotiations with an incumbent LEC in Georgia. In that situation, the incumbent cannot condition negotiations on the requesting carrier first obtaining certification in Georgia. Importantly, the regulation does not speak to arbitrations and does not address Section 253(a) of the 1996 Act, which permits a State commission to enforce competitively neutral requirements -- such as the South Carolina Commission did in requiring certification as a prerequisite to arbitration -- in order to "ensure the continued quality of telecommunications services, and safeguard the rights of consumers." 47 U.S.C. § 253(a).

Attachment "F"

rules. The obligations of telecommunications carriers include contributing to the Universal Access Fund. The Commission cannot feasibly administer its responsibilities, determine who the telecommunications carriers are, and ensure that such carriers meet their obligations, unless there is a basic mechanism such as the certification requirement contained in O.C.G.A. § 46-5-163(a).

The duties and obligations of an incumbent local exchange company ("LEC") under Section 251 are owed to telecommunications carriers. A telecommunications carrier may initiate negotiations with an incumbent LEC, and the FCC has ruled that in order to negotiate in good faith, the incumbent LEC may not require that the requesting company have already obtained a certificate of authority. However, the FCC issued no such rule with respect to arbitrations.

BellSouth's arguments included an assertion that Low Tech must first show that it is providing a telecommunications service, even in another jurisdiction, before it qualifies as a telecommunications carrier eligible to enforce Section 251 and Section 252 requirements through compulsory arbitration. The Commission does not go so far in this ruling, however. A new entrant should not have to show that it actually provides telecommunications service somewhere, because such a rule would preclude a company that is just beginning its operations. Instead, the Commission rules that a new entrant will qualify as a telecommunications carrier before this Commission if it has obtained a certificate of authority to provide service in Georgia, whether or not it has already begun to provide telecommunications service in Georgia or elsewhere.

Low Tech filed supplemental comments citing to a Conference Report in support of its position. That Conference Report indicates that certain drafters of the 1996 Act believed that the duties under Section 251(b) are owed to telecommunications carriers or "other persons." Low Tech argued that this means any person or entity, even if it is not a telecommunications carrier, may seek to enforce the duties of another company under Section 251(b). Low Tech then extended this argument to assert that any person or entity, even if it is not a telecommunications carrier, may seek to enforce any of the duties under Section 251 and may seek arbitration under Section 252(b).

The Commission is not persuaded by Low Tech's interpretation of the Conference Report and the Act. Even if the Conference Report can be used to conclude that any person may obtain the benefit of a company's duties under Section 251(b), the Conference Report did not go on to extend this to Section 251(c). The explicit wording of Section 251(c) states that the negotiation relevant to Section 252 proceeds upon request of a telecommunications carrier. Read together, Sections 251(c) and 252 quite plainly allow the compulsory arbitration of Section 252(b) to be initiated only by a telecommunications carrier.

The Commission's jurisdiction to conduct compulsory arbitration under Section 252(b) relates to enforcing the incumbent LEC's Section 251(c) duties and obligations, which again are owed to telecommunications carriers. If instead Low Tech's arguments were accepted, then the Commission could be forced to entertain compulsory arbitration cases litigated by companies that may never obtain certificates to provide any telecommunications services in Georgia. Such a result would be